



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Takeo TANAAMI, et al.**

Group Art Unit: **2877**

Serial No.: **10/098,534**

Examiner: **Fannie L. EVANS**

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For: **BIOCHIP READER**

Attorney Docket Number: **020349**

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**DECLARATION UNDER 37 C.F.R. §1.132**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

I, Takeo Tanaami, one of the inventors of the present application, declare that:

1. During June 2004, I discovered that Figure 3 of the present application is incorrectly described as "prior art."

2. As stated on page 4 of the present specification, "FIG. 3 is a schematic view of a biochip reader using a microlens array system illustrating its principle and configuration, mentioned in Japanese patent application No. 2001-2264 submitted by the applicant concerned." Ms. Yumiko Sugiyama and myself are the same inventors/applicants of both the present application and Japanese patent application No. 2001-2264.

3. All references in the present application to Figure 3 as being "prior art" or "conventional" resulted from mistakes made without deceptive intent.

4. All references in the present application to Figure 3 were made based on the subject matter described in our earlier Japanese patent application No. 2001-2264.

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5. Figure 3 depicted an incorrect light intensity distribution since the ratio  $a$  is described in the present specification to be 10 – 20% (see e.g. page 5, lines 15 – 19), which should be noticeably different than the light intensity distribution depicted in Figure 16 having the ratio  $a$  that is described in the present application to be about 90% (see e.g. page 17, line 22 to page 18, line1).

6. Figures 4A and 4B are related to the subject matter discussed with regard to Figure 3 (see e.g. page 5, line 13 - page 6, line 11; and page 17, line 14 – page 18, line 19 of the present specification).

7. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true, and furthermore, these statements are made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardize the validity of the application or any patent issuing thereon.

Aug. 26, 2004

Date

Takeo Tanaami

Takeo TANAAMI